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LRB094 02476 RLC 39181 a

1 AMENDMENT TO HOUSE BILL 371

2 AMENDMENT NO. _____. Amend House Bill 371 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Juvenile Court Act of 1987 is amended by
5 changing Section 5-710 as follows:

6 (705 ILCS 405/5-710)

7 Sec. 5-710. Kinds of sentencing orders.

8 (1) The following kinds of sentencing orders may be made in
9 respect of wards of the court:

10 (a) Except as provided in Sections 5-805, 5-810, 5-815,
11 a minor who is found guilty under Section 5-620 may be:

12 (i) put on probation or conditional discharge and
13 released to his or her parents, guardian or legal
14 custodian, provided, however, that any such minor who
15 is not committed to the Department of Corrections,
16 Juvenile Division under this subsection and who is
17 found to be a delinquent for an offense which is first
18 degree murder, a Class X felony, or a forcible felony
19 shall be placed on probation;

20 (ii) placed in accordance with Section 5-740, with
21 or without also being put on probation or conditional
22 discharge;

23 (iii) required to undergo a substance abuse
24 assessment conducted by a licensed provider and

1 participate in the indicated clinical level of care;

2 (iv) placed in the guardianship of the Department
3 of Children and Family Services, but only if the
4 delinquent minor is under 13 years of age;

5 (v) placed in detention for a period not to exceed
6 30 days, either as the exclusive order of disposition
7 or, where appropriate, in conjunction with any other
8 order of disposition issued under this paragraph,
9 provided that any such detention shall be in a juvenile
10 detention home and the minor so detained shall be 10
11 years of age or older. However, the 30-day limitation
12 may be extended by further order of the court for a
13 minor under age 13 committed to the Department of
14 Children and Family Services if the court finds that
15 the minor is a danger to himself or others. The minor
16 shall be given credit on the sentencing order of
17 detention for time spent in detention under Sections
18 5-501, 5-601, 5-710, or 5-720 of this Article as a
19 result of the offense for which the sentencing order
20 was imposed. The court may grant credit on a sentencing
21 order of detention entered under a violation of
22 probation or violation of conditional discharge under
23 Section 5-720 of this Article for time spent in
24 detention before the filing of the petition alleging
25 the violation. A minor shall not be deprived of credit
26 for time spent in detention before the filing of a
27 violation of probation or conditional discharge
28 alleging the same or related act or acts;

29 (vi) ordered partially or completely emancipated
30 in accordance with the provisions of the Emancipation
31 of ~~Mature~~ Minors Act;

32 (vii) subject to having his or her driver's license
33 or driving privileges suspended for such time as
34 determined by the court but only until he or she

1 attains 18 years of age;

2 (viii) put on probation or conditional discharge
3 and placed in detention under Section 3-6039 of the
4 Counties Code for a period not to exceed the period of
5 incarceration permitted by law for adults found guilty
6 of the same offense or offenses for which the minor was
7 adjudicated delinquent, and in any event no longer than
8 upon attainment of age 21; this subdivision (viii)
9 notwithstanding any contrary provision of the law; ~~or~~

10 (ix) ordered to undergo a medical or other
11 procedure to have a tattoo symbolizing allegiance to a
12 street gang removed from his or her body; or

13 (x) if the minor is 17 years of age or older,
14 committed to a term of confinement in a county jail.

15 (b) A minor found to be guilty may be committed to the
16 Department of Corrections, Juvenile Division, under
17 Section 5-750 if the minor is 13 years of age or older,
18 provided that the commitment to the Department of
19 Corrections, Juvenile Division, shall be made only if a
20 term of incarceration is permitted by law for adults found
21 guilty of the offense for which the minor was adjudicated
22 delinquent. The time during which a minor is in custody
23 before being released upon the request of a parent,
24 guardian or legal custodian shall be considered as time
25 spent in detention.

26 (c) When a minor is found to be guilty for an offense
27 which is a violation of the Illinois Controlled Substances
28 Act or the Cannabis Control Act and made a ward of the
29 court, the court may enter a disposition order requiring
30 the minor to undergo assessment, counseling or treatment in
31 a substance abuse program approved by the Department of
32 Human Services.

33 (2) Any sentencing order other than commitment to the
34 Department of Corrections, Juvenile Division, may provide for

1 protective supervision under Section 5-725 and may include an
2 order of protection under Section 5-730.

3 (3) Unless the sentencing order expressly so provides, it
4 does not operate to close proceedings on the pending petition,
5 but is subject to modification until final closing and
6 discharge of the proceedings under Section 5-750.

7 (4) In addition to any other sentence, the court may order
8 any minor found to be delinquent to make restitution, in
9 monetary or non-monetary form, under the terms and conditions
10 of Section 5-5-6 of the Unified Code of Corrections, except
11 that the "presentencing hearing" referred to in that Section
12 shall be the sentencing hearing for purposes of this Section.
13 The parent, guardian or legal custodian of the minor may be
14 ordered by the court to pay some or all of the restitution on
15 the minor's behalf, pursuant to the Parental Responsibility
16 Law. The State's Attorney is authorized to act on behalf of any
17 victim in seeking restitution in proceedings under this
18 Section, up to the maximum amount allowed in Section 5 of the
19 Parental Responsibility Law.

20 (5) Any sentencing order where the minor is committed or
21 placed in accordance with Section 5-740 shall provide for the
22 parents or guardian of the estate of the minor to pay to the
23 legal custodian or guardian of the person of the minor such
24 sums as are determined by the custodian or guardian of the
25 person of the minor as necessary for the minor's needs. The
26 payments may not exceed the maximum amounts provided for by
27 Section 9.1 of the Children and Family Services Act.

28 (6) Whenever the sentencing order requires the minor to
29 attend school or participate in a program of training, the
30 truant officer or designated school official shall regularly
31 report to the court if the minor is a chronic or habitual
32 truant under Section 26-2a of the School Code.

33 (7) In no event shall a guilty minor be committed to the
34 Department of Corrections, Juvenile Division for a period of

1 time in excess of that period for which an adult could be
2 committed for the same act.

3 (8) A minor found to be guilty for reasons that include a
4 violation of Section 21-1.3 of the Criminal Code of 1961 shall
5 be ordered to perform community service for not less than 30
6 and not more than 120 hours, if community service is available
7 in the jurisdiction. The community service shall include, but
8 need not be limited to, the cleanup and repair of the damage
9 that was caused by the violation or similar damage to property
10 located in the municipality or county in which the violation
11 occurred. The order may be in addition to any other order
12 authorized by this Section.

13 (8.5) A minor found to be guilty for reasons that include a
14 violation of Section 3.02 or Section 3.03 of the Humane Care
15 for Animals Act or paragraph (d) of subsection (1) of Section
16 21-1 of the Criminal Code of 1961 shall be ordered to undergo
17 medical or psychiatric treatment rendered by a psychiatrist or
18 psychological treatment rendered by a clinical psychologist.
19 The order may be in addition to any other order authorized by
20 this Section.

21 (9) In addition to any other sentencing order, the court
22 shall order any minor found to be guilty for an act which would
23 constitute, predatory criminal sexual assault of a child,
24 aggravated criminal sexual assault, criminal sexual assault,
25 aggravated criminal sexual abuse, or criminal sexual abuse if
26 committed by an adult to undergo medical testing to determine
27 whether the defendant has any sexually transmissible disease
28 including a test for infection with human immunodeficiency
29 virus (HIV) or any other identified causative agency of
30 acquired immunodeficiency syndrome (AIDS). Any medical test
31 shall be performed only by appropriately licensed medical
32 practitioners and may include an analysis of any bodily fluids
33 as well as an examination of the minor's person. Except as
34 otherwise provided by law, the results of the test shall be

1 kept strictly confidential by all medical personnel involved in
2 the testing and must be personally delivered in a sealed
3 envelope to the judge of the court in which the sentencing
4 order was entered for the judge's inspection in camera. Acting
5 in accordance with the best interests of the victim and the
6 public, the judge shall have the discretion to determine to
7 whom the results of the testing may be revealed. The court
8 shall notify the minor of the results of the test for infection
9 with the human immunodeficiency virus (HIV). The court shall
10 also notify the victim if requested by the victim, and if the
11 victim is under the age of 15 and if requested by the victim's
12 parents or legal guardian, the court shall notify the victim's
13 parents or the legal guardian, of the results of the test for
14 infection with the human immunodeficiency virus (HIV). The
15 court shall provide information on the availability of HIV
16 testing and counseling at the Department of Public Health
17 facilities to all parties to whom the results of the testing
18 are revealed. The court shall order that the cost of any test
19 shall be paid by the county and may be taxed as costs against
20 the minor.

21 (10) When a court finds a minor to be guilty the court
22 shall, before entering a sentencing order under this Section,
23 make a finding whether the offense committed either: (a) was
24 related to or in furtherance of the criminal activities of an
25 organized gang or was motivated by the minor's membership in or
26 allegiance to an organized gang, or (b) involved a violation of
27 subsection (a) of Section 12-7.1 of the Criminal Code of 1961,
28 a violation of any Section of Article 24 of the Criminal Code
29 of 1961, or a violation of any statute that involved the
30 wrongful use of a firearm. If the court determines the question
31 in the affirmative, and the court does not commit the minor to
32 the Department of Corrections, Juvenile Division, the court
33 shall order the minor to perform community service for not less
34 than 30 hours nor more than 120 hours, provided that community

1 service is available in the jurisdiction and is funded and
2 approved by the county board of the county where the offense
3 was committed. The community service shall include, but need
4 not be limited to, the cleanup and repair of any damage caused
5 by a violation of Section 21-1.3 of the Criminal Code of 1961
6 and similar damage to property located in the municipality or
7 county in which the violation occurred. When possible and
8 reasonable, the community service shall be performed in the
9 minor's neighborhood. This order shall be in addition to any
10 other order authorized by this Section except for an order to
11 place the minor in the custody of the Department of
12 Corrections, Juvenile Division. For the purposes of this
13 Section, "organized gang" has the meaning ascribed to it in
14 Section 10 of the Illinois Streetgang Terrorism Omnibus
15 Prevention Act.

16 (Source: P.A. 91-98, eff. 1-1-00; 92-454, eff. 1-1-02; revised
17 10-9-03.)".